

### **REMARKS**

Claims 1, 3-5, 7-17, 19, and 21-32 are pending. Reconsideration and prompt allowance of the claims is respectfully requested.

#### **35 U.S.C. § 102 Rejections**

Claims 1, 3-5, 7-17, 19, and 21-32 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 5,832,448 to Brown (hereafter Brown). This rejection is respectfully traversed. Applicants respectfully submit that the Final Office Action failed to address the following arguments in the January 23, 2004 response.

Brown is directed to a system and method for monitoring a group of patients having a chronic disease or ongoing health condition. Brown recites, at column 7, lines 2-28 with respect to Figure 3:

Each icon 66 indicates the compliance of the corresponding patient with the prescribed measurement regimen. A chart key 68 is provided on chart 26 to explain the significance of each icon's appearance. Non-compliant patients are represented by flashing icons, while compliant patients are represented by non-flashing icons. In FIG. 3, the flashing icons having dotted borders, while the non-flashing icons have solid borders.

Each icon 66 further indicates the completeness of the set of measurements most recently collected from the corresponding patient. Patients having complete sets are represented by filled icons, while patients having sparse sets are represented by blank icons.

(emphasis added). As stated in the January 23, 2004 response, the icon 66 and the chart key 68 in Brown indicate the level of compliance of a patient or the completeness of measurements collected. Indicating the compliance of a patient or the completeness of collected measurements is entirely different from flagging a list of patients each having at least one health parameter outside a preset range. The health parameters noted in the present application are physiological parameters that deal with real measurement data, whereas data indicating the noncompliance with a measurement regimen deals with “data about data,” which is referred to as “metadata” in the information retrieval research community and which is considered semantically distinct from the actual data. Brown’s system only shows the metadata, but not the actual data indicating the physiological parameters. Therefore, Brown does not disclose or suggest the feature of compiling a flagged list of patients whose health parameters are outside a preset range.

Claim 1 recites: “processing and evaluating statistics from a plurality of patient sources ... compiling, based on a result of the statistics processing and evaluation, a flagged

list of patients each having at least one health parameter outside a preset range," (emphasis added). Since Brown does not disclose or suggest at least this feature of claim 1, claim 1 is allowable.

Claims 3-5, 7-13, and 29 are allowable because they depend from allowable claim 1 and for the additional features they recite. Applicant therefore respectfully requests withdrawal of the rejection of claims 1, 3-5, 7-13, and 29 under 35 U.S.C. §102 (e).

With respect to claim 14, for the same reason as discussed with respect to claim 1, Brown does not disclose or teach "means for processing and evaluating statistics from a plurality of patient sources ... means for compiling, based on a result of the statistics processing and evaluation, a flagged list of patients each having at least one health parameter outside a preset range," as recited in claim 14 (emphasis added). Therefore, claim 14 is allowable.

Claims 15-17, 19, 21-26, and 30 are allowable because they depend from allowable claim 14 and for the additional features they recite. Applicant therefore respectfully requests withdrawal of the rejection of claims 14-17, 19, 21-26, and 30 under 35 U.S.C. §102 (e).

With respect to claim 27, for the same reason as discussed with respect to claim 1, Brown does not disclose or teach "the management computer processes and evaluates statistics from a plurality of patient sources and compiles, based on a result of the statistics processing and evaluation, a flagged list of patients each having at least one health parameter outside a preset range," as recited in claim 27 (emphasis added). Therefore, claim 27 is allowable.

Claim 31 is allowable because it depends from allowable claim 27 and for the additional features it recites. Applicant therefore respectfully requests withdrawal of the rejection of claims 27 and 31 under 35 U.S.C. §102 (e).

With respect to claim 28, for the same reason as discussed with respect to claim 1, Brown does not disclose or teach "means for processing and evaluating statistics from a plurality of patient sources... means for compiling, based on a result of the statistics processing and evaluation, a flagged list of patients each having at least one health parameter outside a preset range," as recited in claim 28 (emphasis added). Therefore, claim 28 is allowable.

Claim 32 is allowable because it depends from allowable claim 28 and for the additional features it recites. Applicant therefore respectfully requests withdrawal of the rejection of claims 28 and 32 under 35 U.S.C. §102 (e).

In view of the above remarks, Applicants respectfully submit that the application is in condition for allowance. Prompt examination and allowance are respectfully requested.

Should the Examiner believe that anything further is desired in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,



Date: June 7, 2004

Kelly T. Lee  
Registration No. 47,743  
**Andrews Kurth LLP**  
1701 Pennsylvania Ave, N.W.  
Suite 300  
Washington, DC 20006  
Tel. (202) 662-2736  
Fax (202) 662-2739